

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION TWENTY-FIVE

Indianapolis, IN

AMCAST INDUSTRIAL CORPORATION<sup>1</sup>  
Employer

and

Case 25-RC-10046

GLASS, MOLDERS, POTTERY, PLASTICS,  
AND ALLIED WORKERS INTERNATIONAL UNION,  
AFL-CIO,  
Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held August 9, 2001, before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

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<sup>1</sup> The name of the Employer has been amended consistent with the stipulation of the parties at hearing.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including quality auditors, maintenance clerks, shipping clerks, group leaders, utility operators/employees, and setups,<sup>2</sup> employed by the Employer at its Gas City, Indiana facility; BUT EXCLUDING all office clerical employees, professional employees, document control clerks, production clerks, guards, team leaders and other supervisors as defined in the Act.

The unit found appropriate herein consists of approximately 270 employees for whom no history of collective bargaining exists.

## I. STATEMENT OF FACTS

The Employer, Amcast Industrial Corporation, operates a manufacturing facility in Gas City, Indiana<sup>3</sup> (hereinafter referred to as "the facility"), where it is engaged in the manufacture and nonretail sale of aluminum wheels for the automotive industry.

The sole issue in dispute is the appropriate unit placement of approximately 44 persons who occupy the positions of Group Leader, Utility (also referred to as Utility Employee/Operator) and Set Up. There are currently 12 Group Leaders, 18 Utilities and 14 Set Up employees. The Employer contends that employees who occupy these positions are supervisors within the meaning of Section 2(11) of the Act and should therefore be excluded from the unit. The Petitioner asserts to the contrary. At the hearing, the Petitioner amended the unit description in its petition to remove the position of "cell leader" since the Employer no longer uses this title, and persons formerly referred to as cell leaders are now called "Set Ups."

On November 9, 1999, a representational hearing was conducted in Case 25-RC-9905 concerning this same Employer and substantially the same issue. At that time, the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW, sought to represent the same unit sought by the Petitioner herein. The job classifications in dispute and the positions of the parties were the same as those in the present case. In the Decision and Direction of Election which issued in Case 25-RC-9905, dated November 26, 1999, the Acting Regional Director concluded that Group Leaders, Utility Employees/Operators and Set Ups were not supervisors within the meaning of Section 2(11) of the Act and therefore, they were included in the petitioned bargaining unit. The Petitioner in that case subsequently withdrew its representation petition and no election was held. Due to the relevancy of the

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<sup>2</sup> The position of "cell leader" which appeared in the unit description in the Decision and Direction of Election which issued in Case 25-RC-9905 has been deleted herein in light of record evidence that the Employer no longer uses the cell leader title, but instead uses the title "Set Up."

<sup>3</sup> Although the facility is located in Gas City, its mailing address is that of the neighboring town of Marion, Indiana.

evidence developed in the previous hearing, the transcript of the hearing in Case 25-RC-9905 was received into evidence at the hearing herein, as well as the Decision and Direction of Election which issued in that case. The findings of fact and conclusions of fact and law contained in that Decision are adopted and incorporated into this decision, unless expressly indicated to the contrary.

The Employer currently manufactures 7 types of wheels. Its facility is comprised of three manufacturing departments: casting, machining and final pack. There are also several support departments, including quality control, maintenance and tooling. In the Casting Department aluminum ingots are melted and the molten metal is injected into wheel casts. The cooled wheels are subsequently x-rayed. Two additional areas exist within the Department: a cast line and a Phase II chip recovery area. There are 28 machines in the Casting Department and 18 contested Utilities positions. Eight of these machines have recently been organized into a cellular manufacturing structure, which will be discussed in greater detail below, and 6 of the Utilities will work in this cell.

The Employer's operation currently functions with three shifts,<sup>4</sup> and the employees on each shift are directly supervised by a Team Leader who reports to the Manager in charge of each department. The parties stipulated at hearing that Team Leaders are statutory supervisors who possess the power to effectively recommend discipline. The record does not reflect the current number of employees working within each manufacturing department on each shift.

In the Machining Department the contested positions are called Set Ups. The Machining Department consists of four areas: pre-machining, blast and heat treat, machining, and in-line inspection. In pre-machining a hub is cut into each wheel, and the wheels are subsequently heat treated, cleaned of debris, and machined. There are 33 machines in this department, and, as the name connotes, the primary function of the Set Up employees is that of a setup person. They check and replace broken tooling in the machines; make changeovers in tooling that are necessary for a product change, perform minor repairs; relieve operators when they take breaks; and substitute in the absence of Team Leaders. There are 3 Set Ups in the pre-machining area, and the Employer acknowledged at hearing that these positions have the same duties and responsibilities as at the time of the last hearing. There are 6 Set Ups in the machining area, and five Set Ups work in the Foundry/Tool Room. There is no evidence that the duties and functions of these Set Ups has changed since the 1999 hearing.

The third manufacturing department is Final Pack which includes the areas of inspection, paint, and shipping. In Final Pack wheels are painted, leak tested, inspected, packed and sent to a shipping area where they are prepared for delivery to customers. According to testimony developed at the prior hearing, there are Group Leaders who work under the direction of Team Leaders. The Team Leaders give the Group Leaders a list of work to be done on the shift, and

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<sup>4</sup> At the time of the prior hearing, the Employer operated four shifts. As a result of a substantial downsizing in its workforce, it currently operates three shifts. The reduction in the number of shifts, however, has not affected the supervisory structure of the Employer's manufacturing departments nor the duties and authority of persons who occupy the contested positions.

the Group Leader distributes the work among employees. The current job description<sup>5</sup> for the Group Leader in the Finishing area summarizes his/her duties as:

Serves as an assistant to the Team Leader. Assumes a leadership roll within the Final Pack area. Formulates and monitors procedures and standards to ensure consistent quality products meet customer specification. Performs the duties and assumes responsibility for the smooth and efficient operation of the assigned area in the absence of the Team Leader. All other duties as assigned.

Despite this broad summary of job functions, the specific functions listed below this broad description involve only physical functions and requirements, with no mention of any duties involving personnel matters. The same holds true for all of the revised job descriptions received into evidence in the hearing herein.

In addition to these manufacturing areas, the Employer's facility includes the support departments of quality control, maintenance and tooling. Group Leader positions exist within the Maintenance Department and Tool Room. The Maintenance Department is responsible for the maintenance and repair of all machinery as well as the physical facility and grounds. The current job description for the Maintenance Group Leader summarizes its functions as follows:

Be able to perform basic maintenance functions on your own and be able to complete other assignments with minimal directions. Be proficient in no less than one of these skills: electrical, hydraulic, or pneumatic trouble shooting, blueprint reading/construction. All other duties as assigned.

The job description for the "Tool Room Group Leader Skilled" position states:

Serves [sic] as an assistant to the Team Leader. Assumes a leadership role within the Tool Room. Formulates and monitors procedures and standards to ensure consistent quality products meet customer specifications. Performs the duties and assumes responsibility for the smooth and efficient operation of the assigned area in the absence of the Team Leader. Serves as trainer for new employees in the Tool Room. Constructs and repairs machine shop tools, gages, fixtures, jigs or molds/dies for use within the plant. All other duties as assigned.

Like the other current job descriptions for the contested positions, this job description, too, is silent in respect to any duties involving personnel matters.

Early this year the Employer began a partial conversion of its manufacturing processes to a cell structure. One cell in the casting department has been created so far, and it is expected to become operational within a few weeks after the hearing herein. Two of the Employer's 7 wheel types will be manufactured in the cell. The cell process will begin after a wheel is cast, and therefore the melt area of the Casting Department is unaffected by this change in manufacturing

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<sup>5</sup> As discussed further herein, job descriptions were revised after the prior hearing assertedly in conjunction with an anticipated quality control audit.

structure. The cell process will also incorporate functions of the Machining Department, so that the manufacture of a wheel after it is cast, will be substantially completed within the cell. The ratio of the number of machines to operators to Utilities is the same within the cell as it is in the traditional manufacturing areas of the Casting Department. Four employees will operate 8 machines, assisted by 2 Utilities on each of three shifts, with 1 Team Leader. Thus, at the present only 6 of the contested positions (6 Utilities) work in the new cell. The remaining 12 Utilities in the Casting Department continue to perform the same functions they performed at the time of the 1999 hearing. More importantly, however, the record indicates that the duties and responsibilities of the 6 Utilities who work within the new cell are also the same as they were during the 1999 hearing. Thus, the new cell structure has not changed the duties or functions of the Utilities.

An employee-witness who had previously worked as a Utility in the Casting Department and who now is an operator within the new cell, testified that he has not observed any difference in the duties and authority of the Utility Employees who work in the new cell as compared to his duties and authority when he occupied the Utility position before the cell concept was implemented.

Record evidence indicates that no substantive changes have occurred since the 1999 hearing in the duties and authority of any of the contested positions. Although the Employer has reduced the size of its workforce and changed from a four to a three-shift operation, the record indicates that these changes have had no impact upon the duties, functions, and authority exercised by employees within the contested positions. As mentioned above, new job descriptions for some of the positions have been developed since the first hearing apparently in anticipation of an audit involving the company's QS 9000 certification. The Employer acknowledged at hearing, however, that despite some rephrasing of the duties of the contested positions, their job functions have not changed. An employee who, until six months ago, had worked as a Set Up in the Machining Department, also testified that he has observed no difference in the duties of current Set Up employees or their interactions with other employees, when compared to his duties when he held the same position.

The only other change noted in the record since the prior hearing is the increased centralization of control over personnel matters by the Human Resource Department.<sup>6</sup> According to the testimony of the Machining Department Manager who has worked for the company approximately 30 years, the Utilities, Group Leaders and Set Ups now have less autonomy than they did in 1999 since final decisions relating to employee discipline, hiring and terminations rest with the Human Resource Department. Even personnel actions recommended by Department Managers must receive ultimate approval from the HR Department.

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<sup>6</sup> The Employer presented some testimonial evidence that since a Team Leader from the Machining Department began working to develop the new cell concept several months ago, the Set Ups on his shift have been given expanded responsibilities for maintaining the functions of the department. However, there was no evidence regarding whether this situation was permanent and, if not, how long it is expected to last. Additionally, an employee witness contradicted this testimony and stated that in a meeting conducted two weeks before the instant hearing, employees in the Machining Department were instructed by their Machining Manager to bring their problems and concerns directly to him.

In the decision in Case 25-RC-9905 it was found that there was no evidence that the Group Leaders, Utility Operator/Employee, and Set-ups had "the authority to independently hire, transfer, lay off, recall, promote, discipline (including discharge), reward, or adjust the grievances of employees." In addition, it was found that their participation in the discipline process was limited to that of performing a "reportorial function," limited to reporting misconduct to management. It was also found that the employees in question had no meaningful participation in the employee evaluation process and did not exercise independent judgment in directing the work of other employees. It was also noted that the record was devoid of evidence which would lead to the conclusion that the employees in question resolved any employee grievances or personnel matters. Finally, it was found that secondary indicia of supervisory status, such as the pay differential between persons in the contested positions and other members of the petitioned unit, supported the conclusion that they were not statutory supervisors.

## II. DISCUSSION

In representation proceedings the burden of proving that an individual is a statutory supervisor rests upon the party making the assertion, The Ohio Masonic Home, Inc., 295 NLRB 390, 393 (1989); Tucson Gas & Electric Co., 241 NLRB 181 (1979). Here the record evidence is insufficient to establish that employees who occupy the positions of Group Leader, Utility Operator/Employee, and Set-up are statutory supervisors. Section 2(3) of the Act excludes from the definition of the term "employee" any individual employed as a supervisor, and Section 2(11) of the Act defines a supervisor as a person who possesses any of the twelve powers listed therein, or the authority to effectively recommend such personnel actions if in doing so s/he exercises independent judgment. In determining whether an individual is a statutory supervisor, the Board and the courts are reluctant to interpret Section 2(11) with an expansive approach since the finding of supervisory status denies to the individual the rights and protections of the Act, Holly Farms Corp. v. NLRB, 517 U.S. 392 (1996). To this end, the Board closely examines the record in its determination of supervisory status, and conclusionary statements made by witnesses in their testimony, without supporting evidence, are insufficient to establish supervisory authority, Sears, Roebuck & Co., 304 NLRB 193 (1991).

It is undisputed that there has been virtually no change in the authority of the contested positions since the 1999 hearing. The few changes which have occurred such as the creation of a cellular structure for certain manufacturing processes and the centralization of authority in the Human Resource Department, have not altered the duties or authority of persons in the contested positions. In regard to the change to the cellular system of production, there was no testimony that any of the incumbents in the cell who hold one of the contested positions have any greater authority than like classified employees outside of the cell. There was no additional evidence from the Employer which would alter the 1999 finding that Group Leaders, Utility Operators/Employees and Set Ups perform only a reportorial function in respect to employee discipline; namely, relaying employee misconduct which they have observed to higher levels of supervision. Contrary to the Employer's assertion in its post-hearing brief, there is no record evidence that a Group Leader, Utility Operator or Set Ups has ever recommended that an employee be issued any specific discipline, or if such occurred, that management summarily

adopted such recommendation without an independent investigation of the precipitating incident.<sup>7</sup> To the contrary, the testimony, regardless of department, is consistent that the sole function of persons in the contested positions is to report misconduct. Merely reporting employee misconduct without recommending any particular corrective action, is not an indicia of supervisory status, Rest Haven Nursing Home, 322 NLRB 210 (1996). Similarly, where discipline recommendations are made but they are only given weight to the extent they may lead to an investigation of the facts, such recommendations are not "effective" within the meaning of Section 2(11), E.I. DuPont de Nemours & Co., 69 NLRB 509, 517 (1946).

At the 1999 hearing the Tooling Superintendent and a Team Leader in the finishing department testified that Group Leaders possessed the authority to send employees home in emergency situations when no Team Leader or higher member of management was present. The Board has consistently held that authority which is limited to taking action in response to flagrant violations of common working conditions, such as an employee being drunk on the job or posing a safety hazard, is insufficient to establish supervisory status, Phelps Community Medical Center, 295 NLRB 486, 492 (1989), quoting Loffland Bros. Co., 243 NLRB 74, 75 n.4 (1979); Waverly-Cedar Falls Health Care, Inc. 297 NLRB 390, 393 (1989). Group Leaders' authority to send employees home in response to their creation of unsafe working conditions, in the instant case clearly falls under this reasoning, and consequently, the exercise of this function does not confer supervisory status. No evidence was proffered at the instant hearing that there has been any additional or different disciplinary authority granted to Group Leaders since the 1999 hearing.

During the previous hearing there was testimony that a few Team Leaders upon occasion asked their Group Leaders to attend conferences in which the Team Leaders counseled or issued discipline to employees. There was no evidence as to the precise role played by Group Leaders in such circumstances, however. No evidence was presented at either hearing, that anyone occupying any of the contested positions has himself/herself issued discipline to an employee, or effectively recommended such. At the hearing herein the Employer offered no evidence that the Group Leaders' role in disciplining employees has been expanded since the last hearing.

At the prior hearing the Employer proffered a number of documents purporting to evidence verbal and written reprimands issued to employees in the Pre-Machining, Machining and Finishing departments and which were allegedly signed by Group Leaders on the line provided on the document for the signature of a Team Leader. No probative value was attached

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<sup>7</sup> In the 1999 hearing, the Tooling Superintendent testified that a Group Leader in the tool shop can make disciplinary recommendations. Yet as previously described, the same witness testified that all prospective discipline is approved or disapproved by the Human Resource department after a review of pertinent facts and the offending employee's work history. Therefore, any recommendation made by a Group Leader is not "effective" within the meaning of Section 2(11) of the Act. Likewise, the Quality Engineer/Lab Supervisor testified in 1999 that when a Group Leader reported the possible falsification of records by a laboratory employee, the Supervisor conducted an independent investigation of the incident and conferred with the Human Resource department before issuing discipline. When a Group Leader in the casting department reported to his Team Leader that an employee was taking excessively long breaks, the Team Leader interviewed the employee about the issue and had the Group Leader attend the meeting so the Team Leader could gather "both sides of the story." No evidence was introduced at this hearing which demonstrated any modification in this process.

to these documents, however, because no testimony was offered explaining the existence of the alleged Group Leaders' signatures on these documents. No additional evidence on this issue was tendered at the instant hearing.

In respect to the issue of discipline, in 1999 there was testimony that in some work areas Group Leaders substituted in the absence of their Team Leaders. There was, however, no clear delineation of the authority possessed by Group Leaders when acting as Team Leaders; the frequency of such substitutions; and the average duration thereof. In the instant hearing, the Employer submitted testimony regarding a Team Leader who had been away from his normal assignment in the Machining Department while he assisted in preparations for the opening of the new cell in the manufacturing process. According to the Machining Department Manager the Set Ups in the Machining Department have substituted in the absence of the Team Leader. Absent, however, is evidence identifying the specific supervisory functions, if any, that Set Ups have performed in the Team Leader's absence and the duration of time a Set Up may have served as an acting Team Leader. Finally, there was opposing testimony from an employee of the Machining Department that employees in the department had been expressly directed to bring work-related concerns to the Department Manager, rather than a Set Up employee. Thus, there is insufficient evidence to establish that in the absence of this Team Leader, a Set Up employee acted in his capacity. The sporadic exercise of Section 2(11) powers does not confer supervisory status under the Act; the authority must be exercised regularly and substantially for supervisory status to accrue, Brown & Root, Inc., 314 NLRB 19, 20-21 (1994); Fred Rogers Company, 226 NLRB 1160, 1161 (1976). Thus, even assuming that Set Ups upon occasion exercise supervisory authority when substituting for Team Leaders, the record does not establish that this assumption of authority is anything other than insubstantial, irregular, and sporadic.

The role the alleged supervisors play in the conduct of employee evaluations was addressed in the 1999 hearing but failed to demonstrate supervisory authority. In some work areas such as Casting, Pre-machining, Machining and Finishing, persons in the contested positions played no role in employee evaluations. In other departments such as the Tool Shop and Quality Assurance, evidence indicated that persons in the contested positions may be consulted for their opinions of the work of employees if their superior is unfamiliar with that work. The prior record failed to reveal, however, what effect, if any, these opinions had upon the ultimate evaluation issued in each instance; and more importantly, whether the opinions had any impact upon the terms and tenure of employment of the employees being evaluated. It is not known, for example, whether the assessment of an employee's work by a Group Leader has ever resulted in a raise for an employee, or has affected the size of raises issued by the Employer. Nor did the previous record disclose whether a Group Leader's assessment of an employee's performance resulted in the demotion or termination of any employee. No evidence was submitted by the Employer in the present hearing that there has been any change in this practice. Absent evidence that assessments of performance rendered by persons in the contested positions have directly affected employees' terms or tenure of employment, it cannot be concluded that the assessments have been "effective" within the meaning of Section 2(11) of the Act, MJM Metal Products, Inc., 325 NLRB 240 (1997); Necedah Screw Machine Products, Inc., 323 NLRB 574, 577 (1997); Northcrest Nursing Home, 313 NLRB 491, 498 fns. 36 & 37 (1993).



In the prior decision it was found that each day persons in several of the contested positions distributed work among the employees with whom they work.<sup>8</sup> There was no evidence, however, that Utility Operators/Employees in the Casting department assigned work to other employees. Maintenance Department work was distributed based upon each employee's area of expertise. In other work areas where persons in the contested positions did assign work, the record failed to disclose the methodology, if any, by which work was distributed. No evidence was proffered by the Employer in the present hearing that would demonstrate that any substantial change has occurred in the manner in which work is assigned by those persons in contested positions who distribute work among their peers. The assignments of work illustrated in the prior record are essentially routine and clerical in nature, involving little, if any independent judgment. Such conduct is not an indicia of true supervisory status, Aquatech, Inc., 297 NLRB 711, 717 (1990), *enfd. sub nom. NLRB v. Aquatech*, 926 F.2d 538 (6<sup>th</sup> Cir. 1991); Cablevision System Development Co., 251 NLRB 1319 (1980); Wirtz Manufacturing Company, Inc., 215 NLRB 252, 254 (1974).

At the previous hearing the Employer submitted evidence in respect to the direction of employees. The evidence showed that Group Leaders trained some employees, but so too did unit members train new hires. No additional evidence on this issue was submitted in the current hearing. According to the evidence adduced at the prior hearing, Group Leaders assisted employees with problems in completing their work assignments, but also spent a considerable portion of their time performing the same work performed by other employees in their work areas. Group leaders did not display any greater degree of authority than that of an experienced employee in relation to less experienced co-workers. A Team Leader in the Pre-Machining department testified at the previous hearing that the Company experiences a substantial turnover among its workforce, and few employees under his supervision had completed 18 months of employment. Employees submit bids on vacant Group Leader, Utility Operator and Set Ups, and the Employer considers such factors as skill and experience in selecting the successful candidate. Thus, in many instances the direction and guidance Group Leaders provide are the advice and guidance of an experienced employee to less experienced ones. Providing such oversight is not the exercise of true supervisory authority, See High Performance Tube, Inc., 251 NLRB 1362, 1368 (1980); Hitchiner Manufacturing Company, 243 NLRB 927, 934 (1979).

While the Employer asserted in the 1999 hearing that the alleged supervisors possessed the authority to resolve employee problems, the record was devoid of any examples where they

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<sup>8</sup> In NLRB v. Kentucky River Community Care, Inc., \_\_\_ U.S. \_\_\_, 121 S.Ct. 1861, 149 L.Ed.2d. 939 (May 29, 2001) the Supreme Court recently held that certain nurses were supervisors under Section 2(11) of the Act because they exercised independent professional judgment in their assignment and direction of the work of less educated and less skilled employees. The instant case can clearly be distinguished from Kentucky River. The individuals involved in that case were professional employees. Such a professional status requires advanced training and education. There is no evidence that any of the employees occupying the positions at issue in this case are professional employees within the meaning of the Act, nor does the Employer allege such status. The Court agreed that it is within the Board's authority to determine the quantum of discretion necessary to constitute "independent judgement" and therefore to confer supervisory status. Here, however, it has been found that persons in the contested positions do not exercise independent judgement because the parameters of their discretion are narrowly constrained by Employer guidelines. Consequently, the holding in Kentucky River does not mandate a result different from that reached herein.

had resolved an employee grievance or personnel matter. Rather, the record contained conclusionary testimony, generally in response to leading questions, that the alleged supervisors resolved employee problems. The record indicated, however, that the problems were generally mechanical in nature, and the contested supervisors either repaired the machines themselves, or requested assistance from the Maintenance Department or a Team Leader. The Employer did not proffer any additional evidence on this issue in the present hearing.

Secondary indicia such as the wage differential between members of the petitioned unit and persons in the contested positions has not changed since the earlier hearing, and also supports a finding that they are not supervisors since Utilities, Group Leaders and Set Ups earn only \$0.50 per hour more than unit members.

Based upon all of the above, it is concluded that Group Leaders, Utility Operators/Employees and Set Up employees are not statutory supervisors. Moreover, since persons in these positions work the same hours; earning substantially similar wages as unit members; receive the same fringe benefits; share common supervision; share daily contact and have substantial interchange with unit members; possess similar skills and perform related work functions, it is concluded that persons in the positions of Group Leaders, Utility Operators/Employees and Set Up share a substantial community of interest with members of the petitioned unit, and shall therefore be included therein.

### III. DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned, among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the Glass, Molders, Pottery, Plastics, and Allied Workers International Union, AFL-CIO.

#### IV. NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices, Club Demonstration Services, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

#### V. LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is directed that 2 copies of an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the undersigned within 7 days from the date of this Decision. North Macon Health Care Facility, 315 NLRB 359 (1994). The undersigned shall make this list available to all parties to the election. In order to be timely filed, such list must be received in Region 25's Office, Room 238, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204-1577, on or before **September 5, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

#### VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099-14th Street. N.W., Washington, DC 20570. This request must be received by the Board in Washington by September 11, 2001.

DATED AT Indianapolis, Indiana, this 28th day of August, 2001

Roger A. LaForge  
Acting Regional Director  
National Labor Relations Board  
Region 25  
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